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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,652	01/07/2004	Barry G. Anderson	015005-9450-00	4091
23409 7590 05/28/2008 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER ANDERSON, CATHARINE L				
ART UNIT		PAPER NUMBER		
3761				
MAIL DATE		DELIVERY MODE		
05/28/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/752,652

Applicant(s)

ANDERSON ET AL.

Examiner

Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12 November 2007 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-21 have been fully considered but they are not persuasive.
3. In response to the applicant's argument that Bemis does not disclose a support member directly connected to the swingarm, it is noted that 'connect' is defined as 'to place or establish in relationship.' The support member of Bemis is placed directly against the swingarm when the swingarm is in the lowered position, as shown in figure 16. The limitations of the present claim do not require the swingarm and support member to be attached together, and therefore Bemis fulfills the limitations of the present claims.
4. In response to the applicant's argument that Bemis does not disclose the swingarm having thereon a support member, or including a support member, it is noted that the support member of Bemis is in direct contact with the swingarm when the swingarm is in the lowered position, as shown in figure 16. Since the present claims

merely require the swingarm to include or have thereon the support member, and do not claim a direct connection between the swingarm and the support member, the temporary connection between the swingarm and the support member of Bemis fulfills the limitations of the claims.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bemis et al. (5,931,822).
7. With respect to claims 1 and 14-17, Bemis discloses a medical device for draining a suction canister 10, as shown in figure 1, having a cover 22 and a liner 14, the cover 22 having a port 320. A housing 400 has a swingarm 484 coupled thereto, the swing arm being movable between a first, or upper, position, and a second, or lower position, as shown in figure 16. A drainhead 492 has a passageway therein, and is movable between a first position and a second position, as shown in figure 16, the second position allowing access to the canister. A support member 464 is coupled to the swingarm 484 and supports the canister, as shown in figure 16. A suction source drains fluid from the canister through the drainhead to a sewer, as disclosed in column 1, lines 59-62.
8. With respect to claims 2 and 3, the swingarm and the drainhead interlock, as shown in figure 17, and the swingarm is unable to move further.

9. With respect to claim 4, the support member 464 includes an alignment member comprising branched arms that surround the cover to align the canister relative to the drainhead, as shown in figure 16.
10. With respect to claim 5, a finger notch engages the cover with the canister, as shown in figure 9.
11. With respect to claim 6, the suction source is activated when the swingarm is in the second position, as disclosed in column 11, lines 34-38.
12. With respect to claim 7, the support member further includes a rigid walled container 416 into which the canister is capable of being positioned, as shown in figure 16.
13. With respect to claim 8, an air tight seal is created when the drainhead is in its second position in order to create a vacuum seal required to drain the canister, as disclosed in column 11, lines 34-38.
14. With respect to claim 9, the swingarm rotates on an axis of 180 degrees between its first and second positions, as shown in figure 16.
15. With respect to claims 10 and 11, the swingarm and drainhead interlock to fix the position of the swingarm relative to the drainhead, as shown in figure 17.
16. With respect to claim 12, the upper portion of the swingarm functions as a handle to allow one to grasp the swingarm during use.
17. With respect to claim 13, the suction source includes a jet pump 604.
18. With respect to claims 18-21, the method of use of the drainage device is described in column 11, lines 34-67.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./
Examiner, Art Unit 3761
/Tatyana Zalukaeva/
Supervisory Patent Examiner, Art Unit 3761